

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MASSACHUSETTS
CENTRAL DIVISION

In re
Andrew J. Bryan
Debtor(s)

Chapter 7
No. 09-41802-MSH

TRUSTEE'S MOTION FOR AUTHORITY TO MAKE INTERIM DISTRIBUTION

To the Honorable Melvin S. Hoffman, Bankruptcy Judge:

Now comes David M. Nickless, the duly appointed Trustee in the above matter (hereinafter the Trustee), and respectfully represents that:

1. Andrew J. Bryan (hereinafter the Debtor) filed a petition for relief under Chapter 7 of the Bankruptcy Code on May 8, 2009.
2. David M. Nickless was appointed Trustee shortly thereafter.
3. On the date of filing, the Debtor held vested options to purchase 7,000 shares of Fortinet, Inc. (hereinafter Fortinet).
4. On September 2, 2010 the Court allowed the Trustee's Motion for Order Authorizing and Approving the Exercise of Up to 7,000 Stock Options and Concurrent Sale of Stock in Fortinet, Inc.
5. Pursuant to that order the Trustee, after exercise of 3,500 options, sold the underlying shares of stock at the then market price of approximately \$20.88 a share. After payment of the exercise price and brokerage commissions, the sale of stock generated net proceeds of \$65,205.20.
6. The Debtor listed total unsecured obligations of \$75,715.01 on Schedule F of his Bankruptcy Petition.

7. The Trustee obtained a bar date in 2009 establishing September 17, 2009 as the last day for creditors to file a claim.
8. Nine creditors timely filed proofs of claim in the total amount of \$44,610.62, which includes the secured claims of the Hudson Power & Light Dept. in the amount of \$629.55 and the Hudson Water Dept. in the amount of \$514.01.
9. The Trustee conducted a review of each of the nine claims and has no objection any of the filed claims. The Trustee has also provided the Debtor an opportunity to object to each of the filed claims, and the Debtor has chosen not to do so.
10. The accountant engaged by the Trustee to prepare federal and state income tax returns has been asked to complete the returns in the immediate future so that they can be forwarded to the Internal Revenue Service and the appropriate state taxing authority(s) for review and allowance. Based on conversations with the accountant, the Trustee believes the tax obligations of the bankruptcy estate will be minimal.
11. The funds on hand, including \$3,000 paid by Citibank in satisfaction of a potential preferential transfer claim are more than sufficient to pay timely filed claims in full with interest as provided by the Bankruptcy Code as well as total expected administrative fees.
12. If the Trustee is required to pay additional taxes or creditors file claims late, the estate continues to hold over 3,500 stock options which, at the current listed price on the NASDAQ Stock Exchange of \$24.00 a share, would generate over \$65,000 in additional funds that could be used to pay the tax obligations, administrative obligations, and any late-filed claims.
13. Payment now of the obligations owed to those creditors who have timely filed claims will terminate the continuing accrual of interest on those claims. Nothing justifies further delay in making the interim distribution.

WHEREFORE David M. Nickless, Trustee, prays that he be authorized to make an interim distribution by immediately making payment to all creditors who have timely filed proofs of claim in full with interest.

David M. Nickless, Trustee
By his attorney,

/s/ Susan H. Christ
Susan H. Christ, Esq.
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CERTIFICATE OF SERVICE

I, Susan H. Christ, do hereby certify that I will immediately upon receipt of the notice of electronic service, serve a copy of the within pleading by mailing the same to any of the parties listed on the attached Service List not noted as having received electronic service.

Dated: September 23, 2010

/s/ Susan H. Christ
Susan H. Christ

SERVICE LIST

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Bankruptcy Unit
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Town of Hudson Water Dept.
C/O Town Collector
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